

Exhibit 3

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2
3 **UNITED STATES DISTRICT COURT**
4 **CENTRAL DISTRICT OF CALIFORNIA**

5 JENNIFER BENTLEY,

6 Plaintiff,

7 v.

8 UNITED OF OMAHA LIFE
9 INSURANCE COMPANY;

10 Defendants.

No. 15-cv-07870-DMG (AJWx)

**DECLARATION OF
CHRISTOPHER R. PITOUN IN
SUPPORT OF CLASS COUNSEL'S
MOTION FOR AWARD OF
ATTORNEY'S FEES AND
REIMBURSEMENT OF
EXPENSES**

1 I, Christopher R. Pitoun, declare as follows:

2 1. I am an attorney licensed to practice before the Courts of California. I
3 am a partner in the law firm of Hagens Berman Sobol Shapiro, LLP (“Hagens
4 Berman”). I have personal knowledge of the facts stated in this declaration and, if
5 called as a witness, I could and would testify competently to them. I make this
6 declaration in support of Class Counsel’s request for attorneys’ fees and
7 reimbursement of litigation expenses, as set forth in Plaintiff’s motion for attorneys’
8 fees, expenses, and service award that is being filed concurrently.

9 2. My firm is counsel of record in this case and represents named Plaintiff,
10 Jennifer Bentley, the class representative, and the class that this Court has certified. I
11 have acted as local counsel throughout this litigation. Both during and after he was
12 still at Hagens Berman, I worked with Mr. Jason Zweig on this matter.

13 3. This declaration presents time and expenses for Hagens Berman from
14 May 24, 2019 to May 1, 2022. It includes Mr. Zweig’s time following May 24, 2019
15 until his departure from Hagens Berman on January 25, 2021. Mr. Zweig’s May 24,
16 2019 declaration discussing Hagens Berman’s work on this matter prior to that time
17 period is incorporated by reference. *See generally* ECF No. 183-3 (“Prior
18 Declaration”).

19 4. Throughout the course of this litigation, Hagens Berman carefully
20 coordinated their activities to avoid engaging in duplicative work. As Co-Class
21 Counsel until Mr. Zweig’s departure, Hagens Berman shared responsibility for
22 running the litigation and handled many non-Plaintiff-specific tasks on behalf of the
23 Class.

24 5. Since May 24, 2019, and in addition to the tasks described in the Prior
25 Declaration, Hagens Berman performed, the following tasks among others while
26 prosecuting this action:

- a. Researching and advising on multiple issues of complex appellate procedure including obtaining limited remand;
- b. Assisting with the drafting and revising of the Ninth Circuit appellate briefing, specifically with respect to class related aspects of the appeal;
- c. Providing analysis of Amicus briefs in support of Ninth Circuit appeal briefing;
- d. Assisting with preparation for oral argument on Ninth Circuit appeal and cross-appeals;
- e. Drafting of Opposition to United's Motion to Stay appellate proceedings;
- f. Providing ongoing legal research into local rules, changing California law, and rulings involving statutes at issue; and
- g. Addressing class notice issues including updating of class website.

6. Hagens Berman regularly prepared and maintained files contemporaneously documenting all time spent, including tasks performed, and expenses incurred. All the time and expenses reported by Hagens Berman were incurred for the benefit of this litigation. From May 24, 2019, the role and contributions of the attorneys from Hagens Berman involved in the litigation are as follows:

- Jason A. Zweig: While at Hagens Berman, Mr. Zweig was involved in all aspects of this case including: (i) communications with class members, (ii) maintenance of the class website, (iii) overall litigation and appellate strategy, (iv) drafting sections of the appeal and cross appeal and researching the legal issues related thereto, and (v) drafting the opposition on the Motion to Stay.
- Kevin K. Green: Mr. Green is a Certified Appellate Specialist who advised on the technical aspects of appellate procedure and was involved in the drafting of appellate briefing. Apart from his briefing expertise, he advised the team on key aspects of Ninth Circuit practice including:

(i) filing procedures, (ii) addressing the mediation questionnaire, (iii) waiver rules, (iv) amicus curiae and review rules, (v) and strategies to expedite oral argument. He advised on the implications of other related cases simultaneously pending before the Ninth Circuit, the California Courts of Appeal, and California Supreme Court and potential strategies on coordination and submission of amicus briefs.

- Christopher R. Pitoun: Mr. Pitoun provided general litigation support as local counsel. Mr. Pitoun was charged with overseeing paralegals during filing and ensuring that all documents complied with all local and appellate rules. Mr. Pitoun also handled legal research in support of the filing process and assisted with the support of the case website.

7. Detailed time and expense records supporting this summary information are available if requested by the Court.

8. Hagens Berman's lodestar from May 24, 2019—the date of the prior petition—to May 1, 2022 is \$122,785.00 with expenses of \$1,961.92. The following is a breakdown of time expended by Hagens Berman's attorneys and paralegals from May 24, 2019 to May 1, 2022:

<u>Attorney Name</u>	<u>Title</u>	<u>Rate</u>	<u>Hours</u>	<u>Lodestar</u>
Jason A. Zweig (until Jan. 24, 2021)	Partner	\$725	79.2	\$57,420.00
Christopher R. Pitoun (2022)	Partner	\$600	.1	\$60.00
Christopher R. Pitoun (2020-2021)	Associate	\$525	6	\$3,150.00
Christopher R. Pitoun (2019)	Associate	\$500	1.6	\$800.00
Kevin K. Green (2022)	Senior Counsel	\$800	.5	\$400.00
Kevin K. Green (2021)	Senior Counsel	\$750	18.3	\$13,725.00
Kevin K. Green (2020)	Senior Counsel	\$650	49.8	\$32,370.00
TOTALS			155.5	\$107,925.00

<u>Paralegal/Staff Name</u>	<u>Title</u>	<u>Rate</u>	<u>Hours</u>	<u>Lodestar</u>
Jennifer Conte (2022)	Paralegal	\$350	7.5	\$2,625.00
Jennifer Conte (2019-2021)	Paralegal	\$300	38.7	\$11,610.00

<u>Paralegal/Staff Name</u>	<u>Title</u>	<u>Rate</u>	<u>Hours</u>	<u>Lodestar</u>
Nicolle Huerta (2020)	Paralegal	\$250	1.3	\$425.00
Matt Isaacs (2019)	Investigator	\$200	1	\$200.00
TOTALS			48.5	\$14,860.00

9. These hourly rates provided for Hagens Berman's attorneys and professional support staff are the same as our usual and customary hourly rates. While Hagens Berman handles hourly work, Hagens Berman works primarily on contingency matters. The rates charged in this matter represent: i) standard rates charged to clients in similar matters or, ii) for counsel that work overwhelmingly on contingency matters, the rates charged for their services on a contingent basis in similar complex class action litigation. Our rates were previously deemed reasonable by this Court (ECF 197 at 8-9 of 15) and have been approved by courts in other class action cases in this district as well.¹

10. The expenses incurred are the type of expenses typically billed by attorneys to paying clients in the marketplace and include such costs as fees paid or incurred for depositions, computerized research and other services, hosting charges to review documents produced in the case and travel in connection with this litigation through May 1, 2022. A breakdown of these expenses - from May 24, 2019 forward - is below. A detailed description of our firm's previous expenses were part of the Prior Declaration. (ECF 183-3 at 7 of 9):

- Ninth Circuit Filing Fees = \$735.00
- Research and Pacer Use = \$156.78
- Messenger and Process Service = \$1,070.14
- Total = \$1,961.92

¹ See e.g. *Waldrup v. Countrywide Financial Corporation, et. al.*, No. 16-cv-088330CAS-AGRx (C.D. Cal. Jul. 16, 2020) Dkt. 499 at 5 (approving fee application for firm's rates at time of application).
DECL. OF PITOUN ISO PL.'S MOT. FOR AWARD OF ATTORNEY'S FEES
AND REIMBURSEMENT OF EXPENSES
010631-11/1893589 V1

1 I declare under penalty of perjury, under the laws of the United States that the
2 foregoing is true and correct.

3 Executed this 17th day of May 2022, Los Angeles, California.
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7 Christopher R. Pitoun
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